

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CARNELL HUNNICUTT, SR.

Plaintiff,

v.

Civ. No. 18-619 JCH/GBW

RAYMOND SMITH, *et al.*,

Defendants.

**ORDER GRANTING DEFENDANTS' MOTION FOR PROTECTIVE ORDER AND
DENYING PLAINTIFF'S MOTION FOR DISCOVERY**

Before the Court are the parties' cross motions regarding discovery. *Docs. 15, 17.*

The motions were filed in connection with Plaintiff's *pro se* prisoner civil rights

Complaint, which was removed from state court on June 29, 2018. *Doc. 1.* Plaintiff asks

the Court to allow discovery "in this matter to prove his case." *Doc. 17.* Defendants

Vazquez, Solomon, and Valeriano (together, "Defendants") seek a protective order

while the Court conducts its initial review of the complaint. *Doc. 15.*

Pursuant to 28 U.S.C. § 1915A, the Court must screen all civil complaints where, as here, a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity. *Sua sponte* dismissal is required where the complaint fails to state a cognizable claim or seeks monetary relief from a defendant who is immune. 28 U.S.C. §1915A(b). Such determination is made based on the allegations of the complaint, and

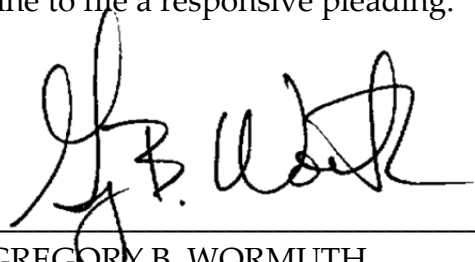
does not require additional evidence. *Id.* Section 1997(e) of Title 42 further provides that a defendant may decline to engage with a prisoner-plaintiff until the Court orders a response. 42 U.S.C. §1997e(g)(1)–(2). Prisoner petitions are similarly excluded from pre-trial case management procedures, including discovery obligations, under the Court’s local rules. *See* NMLR 16.3(d).

Based on these authorities, it is appropriate to delay discovery until the Court completes the initial review process. The Court will therefore grant Defendants’ Motion for Protective Order (*doc. 15*) and deny Plaintiff’s Motion for Discovery (*doc. 17*). To the extent Plaintiff files any additional pre-screening motions, Defendants are not obligated to respond unless and until the Court orders otherwise.

IT IS ORDERED that Defendants’ Motion for Protective Order (*doc. 15*) is GRANTED, and Plaintiff’s Motion for Discovery (*doc. 17*) is DENIED.

IT IS FURTHER ORDERED that until further Order by the Court, all Defendants are excused from any pre-screening obligations, including filing responses to Plaintiff’s filings, or engaging in pre-trial case management procedures or discovery.

IT IS FURTHER ORDERED that if any claims survive initial review, the Court will enter a separate order setting a deadline to file a responsive pleading.



GREGORY B. WORMUTH
UNITED STATES MAGISTRATE JUDGE